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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,496	02/06/2004	Victor S. Chan	CA920030046US1	6631
58139	7590	01/16/2008		
IBM CORP. (WSM) c/o WINSTEAD SECHREST & MINICK P.C. P.O. BOX 50784 DALLAS, TX 75201			EXAMINER MYHRE, JAMES W	
			ART UNIT 3622	PAPER NUMBER
			MAIL DATE 01/16/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/773,496

Applicant(s)

CHAN ET AL.

Examiner

James W. Myhre

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 2/6/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

1. This Office Action is in response to the initial filing on February 6, 2004. Claims 1-21 are currently pending and have been considered below.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 21 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 21 is directed to a "computer data signal embodied in a carrier wave". Thus, the claim is directed to a computer data signal per se. The Office considers a data signal (or carrier wave) as being a form of energy and, as such, does not fall within any of the four recognized classes of statutory subject matter.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minami et al (6,968,499).

Claims 1, 8, 12, 14, and 21: Minami discloses a system, method, program, and signal for managing content on a virtual store, comprising:

- a. creating a template upon which store web page displays are formatted (column 1, lines 13-26; and column 11, line 64 – column 12, line 23);
- b. designating one or more e-marketing spots (e.g. banner advertisement locations) in the hosted stores (column 2, lines 5-10);
- c. setting up a marketing campaign for the stores (column 1, lines 37-42 and column 16, lines 14-60); and
- d. creating one or more campaign initiatives (parameters) for the content to be displayed in the stores (column 2, lines 35-51; column 9, lines 16-33; and column 16, lines 14-60).

While Minami discloses creating a template and advertising campaign for a store, it is not explicitly disclosed that they are used for a plurality of stores. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made that the same template and campaigns could be set up and used for a plurality of stores, such as a chain of stores. One would have been motivated to use the template and campaign for a plurality of stores in order to eliminate the need to reenter the same template and campaign data over and over again for a chain of stores.

Claims 2, 9, 13, and 15: Minami discloses a system, method, and program as in Claims 1, 8, and 14 above, and further discloses creating local campaign initiatives for content to be displayed in the e-marketing spots of the stores (column 2, lines 35-51; column 9, lines 16-33; and column 16, lines 14-60).

Claims 3 and 16: Minami discloses a program and method as in Claims 2, and 15 above, and further discloses modifying the local campaign initiatives in the store (column 10, lines 33-35).

Claims 4, 10, and 17: Minami disclose a system, method, and program as in Claims 2, 9, and 15 above, and further discloses scheduling a time duration (schedule) for the content display (column 9, lines 16-33).

Claims 5, 11, and 18: Minami discloses a system, method and program as in Claims 4, 10, and 17 above, and further discloses checking for schedule conflicts between the campaign initiatives (column 9, lines 16-33; column 14, lines 5-24; and column 15, lines 15-19).

Claims 6 and 19: Minami discloses a program and method as in Claims 5 and 18 above, but does not explicitly disclose choosing the campaign initiative over the local campaign initiative when a schedule conflict occurs. However, the Examiner notes that the decision of which advertisement (campaign initiative) would have priority would be

up to the operator of the system. If only one advertisement could be shown, then the operator would have two choices - show the local advertisement or show the other advertisement. Official Notice is taken that such decisions are old and well known within the advertising arts. For example, for at least several decades, local television stations have routinely substituted local advertisement spots for nationally broadcast advertisements. They have also routinely substituted regional or national alert messages in place of local advertisements/programs. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made for the operator in Minami to select the local campaign initiative over the (system) campaign initiative. One would have been motivated to choose the local campaign initiative over the other campaign initiative in order to allow the store to insert last-minute advertisements, such as manager's specials.

Claims 7 and 20: Minami discloses a program and method as in Claims 1 and 14 above, and further discloses modifying the campaign initiatives in the store (column 10, lines 33-35).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. DiFranza (5,955,710) discloses a system, method, program, and signal for using a template to set up and distribute Internet advertisements on display screens in a plurality of elevators.

b. Lewis (7,120,592) discloses a system, method, program, and signal presenting advertisements in a variety of virtual stores.

c. Ozer et al (7,136,871) discloses a system, method, program, and signal for selectively displaying advertisements based on scheduling and display frequency.

d. van der Riet (7,158,943) discloses a system, method, program, and signal for building and managing retailer presentations using templates for defining the display parameters.

e. Lee et al (7,313,622) discloses a system, method, program, and signal for segmentation and presentation of content online marketing campaigns using HTML templates.

f. Evans et al (7,315,983) discloses a system, method, program, and signal for creating advertisements using a template database.

g. Westrope (WO 01/29716 A2) discloses a system, method, program, and signal for designing and implementing an advertising campaign using templates, scheduling parameters, etc.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to James W. Myhre whose telephone number is (571) 272-6722. The examiner can normally be reached on Monday through Thursday 6:00-3:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


JWM
January 4, 2008


James W. Myhre
Primary Patent Examiner